

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES MICHAEL FECL,  
  
Petitioner,  
  
v.  
  
ROBERT BURTON,  
  
Respondent.

No. 2:20-cv-00878-KJM-CKD P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 3, 2022, the magistrate judge filed findings and recommendations, which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Neither party has filed objections to the findings and recommendations.

The court presumes any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed *de novo*. *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the magistrate judge's analysis.

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Accordingly, IT IS HEREBY ORDERED that:


1. The findings and recommendations filed August 3, 2022 (ECF No. 55), are adopted in full.

2. Petitioner's motion to add claims (ECF No. 47), which the court construes as a motion to amend his § 2254 petition, is denied.

3. Within 30 days from the date of this order, petitioner may file a first amended § 2254 petition **adding only newly exhausted claims two and four** if he chooses to pursue them. If petitioner chooses to abandon these claims, he may file a notice indicating his intention to proceed on the claims pending in his original § 2254 petition.

4. This matter is referred back to the magistrate judge for all further matters.

DATED: January 12, 2023.

  
CHIEF UNITED STATES DISTRICT JUDGE